

SENATE FILE NO. SF0069

Fertilizers.

Sponsored by: Joint Agriculture, State and Public Lands
and Water Resources Interim Committee

A BILL

for

1 AN ACT relating to fertilizer; modifying existing
2 definitions and providing new definitions; amending label
3 requirements; providing for registration of persons in
4 possession of ammonium nitrate or regulated ammonium
5 nitrate materials; identifying adulterated fertilizers; and
6 providing for a contingent effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** This act shall be effective only if the
11 United States congress publishes federal rules under H.R.
12 2764, Subtitle J, Secure Handling of Ammonium Nitrate or
13 its successor. The legislative service office is
14 authorized and directed to publish the provision of this
15 act in the manner which most effectively displays the
16 contingencies provided in this act.

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2 **Section 2.** W.S. 11-14-118 is created to read:

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4 **11-14-118. Registration of ammonium nitrate.**

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6 (a) Any person who possesses ammonium nitrate or
7 regulated ammonium nitrate materials shall be registered
8 with the department. The registration application shall be
9 on a form approved by the director in consultation with and
10 upon the recommendation of the director of the office of
11 homeland security. The director shall charge an annual
12 registration fee not to exceed fifty dollars (\$50.00).
13 Nothing in this section shall require the registration of
14 any person who produces, sells or purchases ammonium
15 nitrate exclusively for use in the production of an
16 explosive under a license or permit issued under chapter 40
17 of title 18, U.S.C.

18

19 (b) Ammonium nitrate and regulated ammonium nitrate
20 materials shall be secured to provide reasonable protection
21 against vandalism, theft or other unauthorized use.
22 Reasonable protection may include, but not be limited to,
23 ensuring that storage facilities are fenced and locked when
24 unattended, and inspected daily for signs of attempted

1 entry or vandalism to any storage facility. The director
2 in consultation with or upon the recommendation of the
3 director of the office of homeland security, may recommend
4 other security measures. The director shall work in
5 consultation with or upon the recommendation of the
6 director of the office of homeland security to provide
7 information to ammonium nitrate users on appropriate
8 security measures.

9

10 (c) A distributor shall record the date of sale and
11 quantity sold, the valid state or federal driver's license
12 number, the current physical address and telephone number
13 for the purchaser of ammonium nitrate or regulated ammonium
14 nitrate materials. If the purchaser will apply the
15 ammonium nitrate or regulated ammonium nitrate material,
16 the distributor shall obtain the registrant's registration
17 number as a condition of completing the sale. A registrant,
18 if not a distributor, shall record the date of application.
19 All sale and application records shall be retained by each
20 registrant for a period of not less than two (2) years.

21

22 (d) Registrants shall comply with all federal and
23 state requirements regarding the dissemination of any

1 information, providing the director and the director of the
2 office of homeland security access to the records.

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4 (e) For the purposes of this section:

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6 (i) "Ammonium nitrate" means chiefly the
7 ammonium salt of nitric acid. Ammonium nitrate shall not
8 contain less than thirty-three percent (33%) nitrogen, one-
9 half (1/2) of which is the ammonium form and one-half (1/2)
10 of which is the nitrate form;

11

12 (ii) "Regulated ammonium nitrate materials"
13 means regulated ammonium nitrate material fertilizer
14 products which have been determined by the director in
15 consultation with and upon the recommendation of the
16 director of the office of homeland security to warrant
17 regulation based on the potential explosive capacity of the
18 fertilizer material determined by the ammonium nitrate
19 content.

20

21 **Section 3.** W.S. 11-14-101, 11-14-103(a)(xvii), by
22 creating new paragraphs (xxiii) and (xxiv) and by amending
23 and renumbering paragraph (xxiii) as (xxv), 11-14-105(a),
24 11-14-109(a)(i), (b)(ii), (iii), by creating a new

1 paragraph (iv) and by creating a new subsection (e) and
2 11-14-115(a) are amended to read:

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4 **11-14-101. Short title.**

5

6 This act shall be known as the "Wyoming Fertilizer Law of
7 ~~1971~~ 2009."

8

9 **11-14-103. Definitions.**

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11 (a) As used in this act:

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13 (xvii) "Primary nutrient" means the plant
14 nutrients nitrogen (N), available phosphate (P₂O₅) or
15 ~~phosphorus, and~~ soluble potash ~~or potassium~~ (K₂O);

16

17 (xxiii) "Organic fertilizer" means a material
18 containing carbon and one (1) or more elements other than
19 hydrogen and oxygen essential for plant growth, and allowed
20 for use under the Organic Foods Production Act of 1990, as
21 promulgated by the United States department of agriculture
22 "National List of Allowed and Prohibited Substances" rule;

23

1 (xxiv) "Secondary or micro plant nutrients"
2 means nutrients other than the primary nutrients that are
3 essential for the normal growth of plants and that may need
4 to be added to the growth medium. Secondary plant
5 nutrients shall include calcium, magnesium and sulfur.
6 Micro plant nutrients shall include boron, chlorine,
7 cobalt, copper, iron, manganese, molybdenum, nickel, sodium
8 and zinc;

9
10 ~~(xxiii)~~ (xxv) "This act" means W.S. 11-14-101
11 through ~~11-14-117~~ 11-14-118.

12
13 **11-14-105. Label requirements.**

14
15 (a) Any commercial fertilizer, soil amendment or soil
16 conditioner distributed in this state in containers shall
17 have affixed to the container a label setting forth in
18 clearly legible and conspicuous form the information
19 required by W.S. 11-14-104(a) and (b), the month and year
20 of preparation or lot number, and shall show the net weight
21 stated in both metric units and avoirdupois. In case of
22 bulk shipments, this information in written or printed form
23 shall accompany delivery and be supplied to the purchaser
24 at time of delivery.

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2 **11-14-109. Misbranded or adulterated fertilizer, soil**
3 **conditioner or soil amendment; distribution of unregistered**
4 **fertilizer.**

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6 (a) No person shall distribute misbranded fertilizer,
7 soil conditioners or soil amendments. A commercial
8 fertilizer, soil conditioner or soil amendment is
9 misbranded if:

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11 (i) Its labeling is false or misleading in any
12 particular way, including being labeled organic fertilizer,
13 when its use is not allowed pursuant to the United States
14 department of agriculture "National List of Allowed and
15 Prohibited Substances" rule;

16

17 (b) No person shall distribute an adulterated
18 fertilizer, soil conditioner or soil amendment. A
19 commercial fertilizer, soil conditioner or soil amendment
20 is adulterated if:

21

22 (ii) Its composition falls below or differs from
23 that which it is purported to possess by its labeling;~~or~~

24

1 (iii) It contains unwanted crop seed or weed
2 seed; or

3

4 (iv) A commercial fertilizer that contains
5 guaranteed amounts of phosphates or micronutrients,
6 contains metals in amounts greater than the levels of
7 metals established by the following table:

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<u>Metal</u>	<u>ppm per 1% P₂O₅</u>	<u>ppm per 1% micronutrients</u>
<u>Arsenic</u>	<u>13</u>	<u>112</u>
<u>Cadmium</u>	<u>10</u>	<u>83</u>
<u>Cobalt</u>	<u>3,100</u>	<u>23,000*</u>
<u>Lead</u>	<u>61</u>	<u>463</u>
<u>Mercury</u>	<u>1</u>	<u>6</u>
<u>Molybdenum</u>	<u>42</u>	<u>300*</u>
<u>Nickel</u>	<u>250</u>	<u>1,900</u>
<u>Selenium</u>	<u>26</u>	<u>180</u>
<u>Zinc</u>	<u>420</u>	<u>2,900*</u>

19 (* only applies
20 when not
21 guaranteed)

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23 The table shall be used according to the following three
24 (3) situations:

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(A) For fertilizers with a phosphate guarantee, but no micronutrient guarantee, multiply the percent guaranteed P_2O_5 in the product by the values in the table to obtain the maximum allowable concentration of each metal. The minimum value for P_2O_5 utilized as a multiplier shall be six (6.0);

(B) For fertilizers with one (1) or more micronutrient guarantee, but no phosphate guarantee, multiply the sum of the guaranteed percentages of all micronutrients in the product by the value in the appropriate column in the table to obtain the maximum allowable concentration (in parts per million, or ppm) of each metal. The minimum value for micronutrients utilized as a multiplier shall be one (1);

(C) For fertilizers with both a phosphate and a micronutrient guarantee, multiply the guaranteed percent P_2O_5 by the value in the appropriate column. The minimum value for P_2O_5 utilized as a multiplier shall be one (1). Then, multiply the sum of the guaranteed percentages of the micronutrients by the value in the appropriate column. The minimum value for micronutrients utilized as a

1 multiplier shall be one (1). Then, utilize the higher of
2 the two (2) resulting values as the maximum allowable
3 concentration (ppm) of each metal.

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5 (e) Any penalties resulting from violations of these
6 heavy metal standards shall accrue to the registrant of the
7 material that violates the heavy metal standard.

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9 **11-14-115. Action for damages to crops; evidence.**

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11 (a) Nothing in this act shall preclude the right of a
12 purchaser to bring an action for any damages to crops, land
13 or livestock by reason of misbranded, adulterated or
14 deficient fertilizer, soil conditioner or soil amendment.

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16 **Section 4.** Subject to section 1 of this act, this act
17 is effective July 1, 2009.

18
19 (END)